

HON. JAMES L. ROBERT
Hearing Date: November 28, 2014

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GERALD R. TARUTIS, as Litigation
Guardian ad Litem of R.J.S, a minor child;
SVETLANA I. SAVCHUK and SERGEY I.
SAVCHUK, parents of R.J.S.

Plaintiffs,

v.

SPECTRUM BRANDS, INC., a Delaware
Corporation; SS BETHEL, LLC, a limited
liability company organized under the laws
of the State of Delaware, D/B/A STAR
STRUCK, LLC; and MORRISTOWN
STAR STRUCK, LLC, a limited liability
company organized under the laws of the
State of Delaware,

Defendants.

NO. 2:13-CV-00761-JLR

~~PROPOSED~~ ORDER
APPROVING MINOR
SETTLEMENT AND
DISBURSEMENT OF FUNDS

PLR

The Motion for Approval of Minor Settlement and Disbursement of Funds having come
before the Court and the Court having considered the Report of the Litigation Guardian ad Litem,
and having considered the files and records herein; it is hereby ORDERED:

ORDER APPROVING SETTLEMENT AND
DISBURSEMENT OF FUNDS- 1

LAW OFFICES OF JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Phone: 206/621-8525
Fax: 206/223-8224

I. FINDINGS

1.1 Jurisdiction. The court has jurisdiction over this matter in that this matter involves the settlement of a personal injury action involving a minor child. Litigation was commenced against the Defendants in King County, Washington.

1.2 Receipt. Neither the Plaintiffs nor anyone acting on Plaintiffs' behalf has had receipt or constructive receipt of the funds to be placed in an annuity within the meaning of Treasury Regulations Section 1.451-2(a) in that Plaintiffs' control or receipt of these funds has been subject to substantial limitations and restrictions. These funds have not yet been paid by the Defendants and when paid will be held in escrow by the Defendant until they are placed in the annuities as ordered by this court.

1.3 Allocation. The proposed minor allocation in the sum of \$2,354,319.17, as set forth in the petition and report of the Guardian ad Litem are in his best interests, has been approved by his guardian ad litem, and appears fair and reasonable in light of the alleged injuries sustained by RJS.

1.5 GAL Report. The Court has received the written report of the Guardian Ad Litem which recommends approval of the proposed settlement including a cash payment to a Special Needs Trust, the use of structured settlements to fund the future periodic payments, and the approval of the payment of fees and costs.

1.6 Releases. The Plaintiffs and the Guardian ad Litem are ready to execute full and final releases upon the Court granting approval of this settlement, which releases will become effective at such time as the Court orders the distribution of the funds by the Defendants.

1.7 Settlement in best interest of the child. The settlement has been fully explained to the plaintiffs by their counsel and the GAL, and all issues related thereto have been fully disclosed. Further the Guardian ad Litem has investigated the facts, has reviewed medical reports and has prepared a written report which has been filed and reviewed by this court. Considering all aspects of the claim, liability issues, and the nature and extent of the injuries, the offer is fair and reasonable and in the best interest of the minor child.

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II. ORDER & JUDGMENT

Based upon the above findings, it is hereby **ORDERED, ADJUDGED and DECREED** as follows:

2.1 The settlement offer of \$5,000,000 in favor of the minor child and his parents with the apportionment of \$2,354,319.17 to the minor child and \$50,000 to each parent as set forth in the Petition for Approval of Settlement is approved.

2.2 The Defendants shall pay the sum of \$2,645,680.83 to the Law Offices of James S. Rogers. Upon receipt, the funds shall be disbursed as follows:

Attorney Fees (James S. Rogers):	\$1,950,000.00
Attorney Fees (Raymond Grill):	\$50,000.00
Holdback:	\$10,000.00
Costs:	\$58,370.64
Liens:	\$477,310.19
Payment to Svetlana I. Savchuk	\$50,000.00
Payment to Sergey I. Savchuk	\$50,000.00

2.3 The Defendants shall pay the sum of \$694,319.17 to Comerica Bank & Trust, N.A., as Trustee of the RJS Special Needs Trust, which trust is hereby approved.

2.4 The Defendants and/or their Insurer shall make a "qualified assignment" within the meaning of Section 130 of the Internal Revenue Code of 1986, as amended, of the Defendants' and/or the Insurer's liability to make the periodic payments set forth in Section 2.6 below to Prudential Assigned Settlement Services Corp (Assignee) and in Section 2.7 below to BHG Structured Settlements, Inc. (Assignee) and according to the terms of this order.

2.5 None of the periodic payments or any portion thereof may be accelerated, deferred, increased or decreased, anticipated, sold, assigned, pledged or encumbered by the Payee or by any other person who becomes a recipient of periodic payments pursuant to the terms of this order.

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2 2.6 The sum of \$830,000.00 shall be made payable to Prudential Assigned Settlement
3 Services Corporation (Assignee) to fund an annuity issued by The Prudential Insurance Company of
4 America (Annuity Issuer) and the sum of which shall provide the future periodic payments as described
5 below:

6 Payee: Comerica Bank & Trust, N.A. as Trustee for the RJS Special Needs Trust. If the
7 trust has been terminated and is not in existence, payments shall be paid to RJS.

8 \$15,000.00 payable annually for four (4) years guaranteed, commencing on 08/01/2027
9 with the last guaranteed payment on 08/01/2030.

10 \$1,250.00 payable monthly for four years guaranteed, commencing on 05/29/2027 with
11 the last guaranteed payment on 04/29/2031.

12 \$2,709.31 payable monthly for the life of RJS with forty (40) years guaranteed,
13 commencing on 05/29/2031, increasing by 3% compounded annually, with the last
14 guaranteed payment on 04/29/2071. The first increase will take effect on 05/29/2032.

15 \$125,000.00 guaranteed lump sum payable on 05/29/2034.

16 If RJS dies on or before the date that all of the Guaranteed Payments become due, 100%
17 of any remaining and unpaid Guaranteed Payments shown on the Payment Schedule
18 above will be commuted and paid in a lump sum. The commuted value of such payments
19 will be equal to 90% of the cost of a new annuity contract that would provide the
20 commuted payments. This cost will be computed using the Annuity Issuer's annuity rates
21 in effect on or about the date of the commuted payment for new annuity contracts that are
22 issued for the same or similar type of business as this Certificate. The commuted value
23 will be paid to the last validly designated Beneficiary(ies).

24 2.7 The sum of \$830,000.00 shall be made payable to BHG Structured Settlements, Inc. to
fund an annuity issued by Berkshire Hathaway Life Insurance Company of Nebraska and the sum of
which shall provide the future periodic payments as described below:

 Payee: Comerica Bank & Trust, N.A. as Trustee for the RJS Special Needs Trust. If the
trust has been terminated and is not existence, payments shall be paid to RJS.

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\$15,000.00 payable annually for four (4) years guaranteed, commencing on 08/01/2027 with the last guaranteed payment on 08/01/2030.

\$1,250.00 payable monthly for four years guaranteed, commencing on 05/29/2027 with the last guaranteed payment on 04/29/2031.

\$2,575.00 payable monthly for the life of RJS with forty (40) years guaranteed, commencing on 05/29/2031, increasing by 3% compounded annually, with the last guaranteed payment on 04/29/2071. The first increase will take effect on 05/29/2032.

\$125,000.00 guaranteed lump sum payable on 05/29/2034.

Following RJS's death, the remaining and unpaid certain payments listed above are Commutable Payments and will be commuted in exchange for a lump sum equal to 95% of the present value of the unpaid Commutable Payments, as calculated by the Annuity Issuer. The present value will be computed using a discount rate equal to the annual effective yield on the date of death of RJS of the highest yielding U.S. treasury strip available as reported in the Wall Street Journal (or an equivalent source of such information), plus 200 basis points (2 percentage points). If the date of death is not a business day, the yield on the next business day will be used. The commutation payment will be determined within 30 days after the Annuity Issuer is notified in writing of the death of RJS.

2.8 The proposed future periodic payments set forth in paragraphs 2.7 and 2.8 above, are subject to the understanding that these are estimates based upon current market conditions and the actual annuity payments may vary depending upon the date that the settlement is approved, when the funds are received and the date the annuity contract is purchased.

2.9 Any payments to be made after the death of Roman Savchuk shall be made to the Estate of Roman Savchuk or to any such person or entity designated by Roman Savchuk, upon attaining age of majority. No such designation, or any revocation thereof, shall be effective unless it is in writing and delivered to Assignee. The designation must be in a form acceptable to Assignee.

2.10 The Guardian ad Litem is authorized to sign and execute the appropriate settlement documents necessary to implement this order, to receive and disburse funds as set forth above and to

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2 take any necessary related actions to ensure that this order and the agreed judgment confirming and
3 approving settlement are properly implemented.

4 **2.11** The Litigation Guardian ad Litem's fees and costs, as set forth in the Litigation
5 Guardian ad Litem's Report and/or Declaration, are found to be reasonable and are approved, to be
6 paid from the Holdback.

7 **2.12** The parties shall execute any and all documents and take any supplementary steps
8 necessary to give full force and effect to the basic terms of this Order.

9 **2.13** As of 60 days from the date of this Order and without further order of Court, the
10 Guardian ad Litem, Gerald R. Tarutis, is authorized to and shall be discharged.

11 Dated and signed in open court this 7th day of January, 2014. ⁵¹

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13 
14 HONORABLE JAMES ROBART

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16 PRESENTED BY:

17 LAW OFFICES OF JAMES S. ROGERS

18 s/James S. Rogers

19 s/Elizabeth J. Donaldson

20 James S. Rogers, WSBA #5335

21 Elizabeth J. Donaldson, WSBA #45291

22 Attorneys for Petitioner

23 1500 Fourth Ave., Suite 500

24 Seattle, WA 98101

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ORDER APPROVING SETTLEMENT AND
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ORDER APPROVING SETTLEMENT AND
DISBURSEMENT OF FUNDS-- 7

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